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**PAS LLC and International Brotherhood of Teamsters Local Union No. 727.** Cases 13–CA–143764 and 13–CA–144968

October 31, 2016

**DECISION AND ORDER**

BY CHAIRMAN PEARCE AND MEMBERS MISCIMARRA  
AND MCFERRAN

The General Counsel seeks a default judgment in this case on the ground that Pas LLC, the Respondent, has failed to file an answer to the first amended consolidated complaint and compliance specification. Upon charges filed on January 2, and 23, 2015, by International Brotherhood of Teamsters, Local Union No. 727, the Union, the General Counsel issued a first amended consolidated complaint, compliance specification, and notice of hearing (the consolidated complaint and compliance specification) on June 17, 2015, alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act. The Respondent failed to file an answer.

On July 20, 2015, the General Counsel filed with the National Labor Relations Board a Motion to Transfer Proceedings to the Board and a Motion for Default Judgment. Thereafter, on July 22, 2015, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

**Ruling on Motion for Default Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. Similarly, Section 102.56 of the Board's Rules and Regulations provides that the allegations in a compliance specification will be taken as true if an answer is not filed within 21 days from service of the compliance specification. In addition, the consolidated complaint and compliance specification affirmatively stated that, unless an answer was received by July 8, 2015, the Board may find, pursuant to a motion for default judgment, that the allegations in the consolidated complaint and compliance specification are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated July 9, 2015, notified the Respondent that unless an answer was received by July 13, 2015, a motion for default judgment would be filed.

Accordingly, in the absence of good cause being shown for the failure to file an answer, we deem the allegations in the consolidated complaint and compliance specification to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, an Illinois limited liability company with an office and place of business in Chicago, Illinois, has been engaged in the business of providing parking valet services for commercial buildings and retail enterprises. During the calendar year preceding the issuance of the consolidated complaint and compliance specification, the Respondent, in conducting its business operations described above, provided services valued in excess of \$50,000 at various retail restaurants located within the State of Illinois that are directly engaged in interstate commerce.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

At all material times, George Ongay held the position of the Respondent's operations manager and has been a supervisor of the Respondent within the meaning of Section 2(11) of the Act and an agent of the Respondent within the meaning of Section 2(13) of the Act.

The following employees of the Respondent (collectively, the units) constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Unit A: All full-time and part-time employees who perform valet services at locations which have no parking facilities; but excluding all clerical employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act;

Unit B: Cashiers, hikers, attendants, porters, maintenance men/custodians, drive men, washers, collectors, customer service representatives (excluding those who do sales and/or marketing), drivers, dispatchers, bellmen, doormen and supervisors who perform bargaining unit work, but excluding clerical employees, guards, professional employees and supervisors as defined in the National Labor Relations Act, who do not perform bargaining unit work.

Since about July 1, 2013, and at all material times, the Respondent has recognized the Union as the exclusive collective-bargaining representative of Unit A. This recognition has been embodied in a collective-bargaining agreement between the Respondent and the Union effective from July 1, 2013, through June 20, 2018.

Since December 19, 2013, and at all material times, the Respondent has recognized the Union as the exclusive collective-bargaining representative of Unit B. This recognition has been embodied in a collective-bargaining agreement between the Respondent and the Union effective from November 1, 2011, through October 31, 2016.

At all times since about July 1, 2013, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of Unit A.

At all times since about December 19, 2013, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of Unit B.

The collective-bargaining agreements described above (the collective-bargaining agreements) contain the following provision:

Section 2.2: When specifically authorized in writing by each employee, the Employer will deduct, from the first paycheck of each month, dues and/or fees owing the Union and forward them to the Secretary-Treasurer of the Union, not later than ten (10) days after each monthly deduction. Such authorization, once given, shall be irrevocable for a period of not less than one (1) year or the term of this Agreement, whichever occurs sooner.

Since about July 2014, the Respondent has failed to remit dues to the Union for all bargaining unit employees who have specifically authorized the deduction of dues from their paychecks in the units described above.

On December 8, 2014, the Union, orally and in writing, requested from the Respondent's agent George Ongay and the Respondent's attorney, Douglas Wexler,

- (i) A seniority list of all employees performing bargaining unit work from July 2013 – present; and
- (ii) A list of all current accounts held by Pas, LLC.

On December 15, 2014, the Union orally informed the Respondent's agent, George Ongay, that the information the Union requested was still outstanding.

The information requested by the Union, as described above, is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

Since about December 15, 2014, the Respondent has unreasonably delayed in providing, and has failed to provide, the Union with the requested information.

#### CONCLUSION OF LAW

By the conduct described above, the Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) by, since about July 2014, failing to remit dues to the Union for all bargaining unit employees who have specifically authorized the deduction of dues from their paychecks as provided in Section 2.2 of the collective-bargaining agreements, we shall order the Respondent to remit to the Union the amount set forth in Attachment A of the consolidated complaint and compliance specification, attached to this decision, plus interest accrued to the date of payment at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 8 (2010).

Additionally, having found that the Respondent has violated Section 8(a)(5) and (1) by unreasonably delaying in providing and failing to provide the Union with requested necessary and relevant information since December 15, 2014, we shall order the Respondent to provide the Union with the requested information.

#### ORDER

The National Labor Relations Board orders that the Respondent, Pas LLC, Chicago, Illinois, its officers, agents, successors, and assigns, shall

- 1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with the International Brotherhood of Teamsters, Local Union No. 727 as the exclusive collective-bargaining representative of the employees in the following units by failing to remit dues to the Union for all bargaining unit employees who have specifically authorized the deduction of dues from their paychecks as provided in Section 2.2 of the collective-bargaining agreements. The units are:

Unit A: All full-time and part-time employees who perform valet services at locations which have no park-

ing facilities; but excluding all clerical employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act;

Unit B: Cashiers, hikers, attendants, porters, maintenance men/custodians, drive men, washers, collectors, customer service representatives (excluding those who do sales and/or marketing), drivers, dispatchers, bellmen, doormen and supervisors who perform bargaining unit work, but excluding clerical employees, guards, professional employees and supervisors as defined in the National Labor Relations Act, who do not perform bargaining unit work.

(b) Refusing to bargain collectively with the Union by unreasonably delaying in providing, and failing to provide, the Union with certain requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Remit to the Union the dues for all bargaining unit employees who have specifically authorized the deduction of dues from their paychecks as provided in Section 2.2 of the collective-bargaining agreements, in the amount of \$4555, as set forth in Attachment A of the consolidated complaint and compliance specification, with interest in the manner set forth in the remedy section of this decision.

(b) Provide the Union with the relevant and necessary information it requested on December 8, 2014.

(c) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of dues remittances due the Union under the terms of this Order.

(d) Within 14 days after service by the Region, post at its facility in Chicago, Illinois, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 13,

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 1, 2014.

(e) Within 21 days after service by the Region, file with the Regional Director for Region 13 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. October 31, 2016

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Mark Gaston Pearce, Chairman

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Philip A. Miscimarra, Member

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Lauren McFerran, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

#### APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

#### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain collectively and in good faith with International Brotherhood of Teamsters Local Union No. 727 as the exclusive collective-bargaining representative of our employees in the following units by failing to remit to the Union the dues for all bargaining unit employees who have specifically authorized the deduction of dues from their paychecks as provided in Section 2.2 of the collective-bargaining agreements. The units are:

Unit A: All full-time and part-time employees who perform valet services at locations which have no parking facilities; but excluding all clerical employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act;

Unit B: Cashiers, hikers, attendants, porters, maintenance men/custodians, drive men, washers, collectors, customer service representatives (excluding those who do sales and/or marketing), drivers, dispatchers, bellmen, doormen and supervisors who perform bargaining unit work, but excluding clerical employees, guards, professional employees and supervisors as defined in the National Labor Relations Act, who do not perform bargaining unit work.

WE WILL NOT unreasonably delay in providing, or fail to provide, the union with relevant and necessary information requested by the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL remit to the Union the dues for all bargaining unit employees who have specifically authorized the deduction of dues from their paychecks pursuant to Section 2.2 of our collective-bargaining agreements in the amount totaling \$4555, plus interest.

WE WILL provide the Union with the relevant and necessary information requested by the Union on December 8, 2014.

PAS LLC

The Board's decision can be found at [www.nlr.gov/case/13-CA-143764](http://www.nlr.gov/case/13-CA-143764) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



#### ATTACHMENT A

Last Name	First Name	Months	Dues Rate/Mo.	Gross Dues
Bastidas	Eduardo	12	\$45.00	\$540
Davis	Arthur	12	\$45.00	\$540
Garcic	Mufid	12	\$45.00	\$540
Rebollar	Javier	12	\$45.00	\$540
Sanchez	Uriel	12	\$45.00	\$540
Tabango	Ivan	12	\$45.00	\$540
Vasilev	Hristo	12	\$45.00	\$540
Vasquez	Luis	12	\$45.00	\$540
Yanez	Victor	12	\$45.00	\$540
Gurdiel	Mark	12	\$45.00	\$540

**Total Gross Dues = \$5,400**

Dues Paid by the Employer	Month check was written to Union
\$720.00	September 2014
\$125.00	January 2015

**Total Interim Remittances = \$845.00**

**Net Dues = Total Gross Dues – Total Interim Remittances**

**Net Dues = \$4,555**